

## REMARKS

Claims 21-26 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection.

Claims 21-26 have been amended to remove the term “fixedly.” Instead, the recording mediums recited in these claims are now defined as being “read-only” recording mediums. Support for this amendment can be found in the original specification on, for example, page 11 (lines 21-26). Applicants respectfully submit that one of ordinary skill in the art would clearly understand the meaning of the claims as amended. Accordingly, withdrawal of this §112 rejection is respectfully requested.

Claims 21, 23 and 25 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 6,189,146 to Misra et al. in view of United States Patent No. 5,671,412 to Christiano. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the cited references fail to disclose or suggest all of the claimed features of the present invention. More specifically, neither Misra et al. nor Christiano disclose or suggest a software execution management device that includes, *inter alia*, “executing computer quantity determining means for monitoring a number of executing computers executing the software, and . . . determining whether the number of computers that can execute the software simultaneously is greater than the number of executing computers,” as defined in independent Claim 21. Similar features are also recited in independent Claims 23 and 25. Thus, in the present invention of independent Claims 21,

23 and 25, there is a monitoring of the number of computers that are actually running the software, and there is a determination of whether the permitted number of computers that can simultaneously run the software is greater than the number that are currently actually running the software.

In contrast, the device of Misra et al. does not disclose or suggest such monitoring and determining whether the number of computers executing the software is greater than the permitted number. Instead, in Misra et al., there are merely determinations of how many licenses are included in the license pack, how many have been used, and how many licenses remain in the license pack. Thus, in the device of Misra et al., there is no monitoring of the number of computers currently executing the software, nor is there any determination of whether the actual number of computers currently executing the software is greater than the number of computers that are permitted to simultaneously execute the software. Further, the Christiano reference does not remedy this feature, nor was it relied upon as such. Accordingly, as all of the features of independent Claims 21, 23 and 25 are not disclosed or suggested in the cited references, Applicants respectfully request the withdrawal of this §103 rejection.

Claims 22, 24 and 26 stand rejected under 35 U.S.C. §103 as being unpatentable over Misra et al. in view of Christiano and further in view of United States Patent No. 4,926,315 to Long et al. Applicants respectfully traverse this rejection.

Applicants respectfully traverse this rejection for the same reasons discussed above with respect to the §103 rejection of Claims 21, 23 and 25, and also because the Long

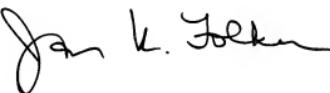
et al. reference does not remedy the deficiencies noted above, nor was it relied upon as such. Accordingly, Applicants also respectfully request the withdrawal of this §013 rejection of Claims 22, 24 and 26.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



James K. Folker  
Registration No. 37,538

July 31, 2008

Suite 2500  
300 South Wacker Drive  
Chicago, Illinois 60606  
(312) 360-0080

Customer No. 24978

P:\DOCS\023\68359\#85466.DOC